

The Rowell-Sirois Commission and the Remaking of Canadian Federalism

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Contents

Note on Sources / ix

Foreword / x

Robert Bothwell and John English

Acknowledgments / xii

Introduction / 3

- 1** A Federation Turned Upside Down / 13
- 2** Towards a Royal Commission: 1935–37 / 38
- 3** Organizing the Commission: Summer 1937 / 67
- 4** Setbacks and Recovery: Autumn 1937 / 90
- 5** Winter of Discontent: January–March 1938 / 115
- 6** Stormy Spring: April–June 1938 / 142
- 7** Hard Seasons: Summer and Fall 1938 / 168
- 8** Toil and Trouble: 1939 and 1940 / 188

- 9** Reinterpreting Canadian Federalism: May 1940 / 208
- 10** Dark Days: 1940–41 / 232
- 11** The Aftermath: 1941–46 / 268
- Conclusion: Appraising Rowell-Sirois / 294
- Notes / 304
- Index / 375

Introduction

Canadians spend as much or more time as do other peoples in major debates about ends and means, about the rich and the poor, about freedom and equality, and about change and the status quo. But they do so in the strange vocabulary of the political elites, in terms of changing the structures and responsibilities of their systems of government – in short in terms of different concepts of federalism.

– Edwin R. Black, 1975¹

Why write a book on a Canadian royal commission established in the 1930s? Royal commissions are infamous for providing the appearance of governmental action while providing little substance. This view permeates both the popular and the academic responses to public inquiries. And not without reason. Canadian political history is filled with public inquiries that produced few substantial policy results. Some commissions, however, are called at critical junctures in a nation's or a province's history to deal with essential matters of state. And a few are worthy of study because their work has meaningful impact not only in the short term but for many years to come.²

In the 1930s the Canadian state confronted the most serious economic crisis the country has ever experienced. The market economy during the Great Depression was in tatters and Canada's federal political system

was feeble in response. Policies put forward by federal and provincial governments to deal with the situation seemed to worsen rather than to alleviate the problem. The Royal Commission on Dominion-Provincial Relations, dubbed the Rowell-Sirois Commission after its two chairmen, was called in 1937 to deal with the political and economic crisis. Its three years of work reveals several aspects of mid-twentieth century Canadian government that are worth pondering today, a time when politics in many liberal democracies once again wallow in problems of legitimacy, scepticism about government, and fears about democracy.

The story of the Rowell-Sirois Commission emphasizes the extent of the political and economic crisis caused by the Depression, and the conditions of “modern” government that accompanied it. The commission’s work demonstrates how a disparate group of talented if orthodox members of the legal and academic elites conducted a massive inquiry and then arrived at remarkable recommendations, unexpected in their originality. Their recommendations avoided the paralysis of constitutional change, reinterpreted the economic and political problems and goals of the country, and described a striking vision for the reset of federal government in Canada.

Moreover, the commission’s extensive consultations and research left a trove of public evidence, private correspondence, and writings that provide rare and detailed insights into the inner workings of government. In its two and a half years of activity, the Rowell-Sirois Commission experienced its share of serious problems. These included the stubborn resistance of the most powerful provinces, serious clashes between federal and provincial “first ministers,” the manipulative agenda of the federal government, and the inquiry’s serious internal disagreements and conflicts. Any one of these obstacles could have destroyed Rowell-Sirois. But none did.

The Commission’s Report is usually described by those who write about the era as one of the most important state papers in Canada’s political history. The depths of its innovations and the issues it raised about federalism, however, have not always been fully appreciated.³ To reconsider one of the few deep examinations of federal government in Canada reminds us that these issues reverberate still, perhaps now as much as ever. Drawing on both the “old” and the “new” political history, the life of the commission takes on new and broader meanings.⁴

When most Canadians think of the Great Depression, two images come to mind: the sepia-toned photographs of the drought-stricken Prairie dustbowl and the stark images of unemployed men seeking jobs and lining up for relief. Over the past half-century, popular histories such as James Gray's *The Winter Years* and Barry Broadfoot's *Ten Lost Years* have etched the impact of the Depression onto the collective imagination.⁵ But most Canadians may not realize that these two conditions – the economic collapse of the Prairie West and rampant unemployment – seriously threatened the viability of the Canadian political and economic order. Most Canadians today know little of the politicians at the federal and provincial levels who struggled to come up with solutions to these dire threats.

By the mid-1930s, problems worthy of the word “crisis” afflicted the Canadian federal system. Since Confederation in 1867, conflict between the dominion and the provincial governments characterized Canadian politics. By the decade of the Depression, however, governments were unable to meet their obligations to the citizenry. Observers expressed doubts about the capacity of the federation to provide effective government. The country's most powerful civil servant, Oscar Skelton, warned Liberal prime minister William Lyon Mackenzie King in 1936 that “the disintegration of Canada is proceeding fast.” Reflecting upon the period years later, economist Henry Angus recalled “a profoundly discontented country, every region of which was obsessed with a sense of injustice ... and self-pity.” Angus and Skelton were not suggesting that Canada's governmental structures were in imminent danger of collapse. They were seriously disturbed by the ineffectuality of the country's political and governmental institutions. As Canada's under-secretary of external affairs, Skelton knew how the absence of consensus vitiated Canadian foreign and defence policies. As political economists, Angus and Skelton were well aware that the failure to coordinate federal and provincial policies had hamstrung all governmental responses to the Depression.⁶

Beyond sketching out the looming threats, Angus and Skelton could have gone further and pointed to the many ways in which public life in Canada had become imperilled. The problems of the economy were obvious and their impact on the well-being of Canadians was deeply troubling. The failure of the country to find a clear foreign policy was another disturbing matter. Less obvious were the ways in which the institutions of government,

politics, and society had deteriorated. The failure of the dominion government to take concerted action against the collapse in world trade demonstrated the limited capacity of the international system for cooperation and indeed a strong tendency for predation. The national two-party system had fractured during the crisis of the Great War, and, despite a return to majority government in 1926, the new multi-party system revealed the extent to which the old politics and traditional parties no longer represented Canadians. The new reformist parties emerging in the 1930s (the Co-operative Commonwealth Federation and Social Credit) attracted enthusiastic adherence but limited broad support, while revolutionary parties such as the Communist Party demonstrated that Canada was not immune to radicalism. By the mid-1930s, provincial political leaders rode the waves of a new populism and became far more compelling figures than their federal counterparts. Premiers such as “Bible Bill” Aberhart, Maurice Duplessis, Mitch Hepburn, Angus L. Macdonald, and Duff Pattullo seemed much more dynamic in responding to public issues than the erratic R.B. Bennett, the crafty Mackenzie King, or the earnest J.S. Woodsworth.

The international trend towards economic protectionism among Western countries in the late 1920s and 1930s gutted international trade. This shift intensified and prolonged the economic crisis for a trading nation like Canada. To make matters worse, collapsing markets and drought devastated the crucial Prairie wheat economy. As trade and commerce collapsed, industrial unemployment emerged as a formidable socio-economic problem that plagued urban centres. Local governments from school boards to town councils were on the front lines in dealing with the economic disaster. They buckled under the weight of mounting costs and plummeting tax revenues, and they turned to provincial governments for aid. The provinces staggered under the weight of relief costs, while the federal government in Ottawa tried to avoid or minimize financial responsibility for what, according to the British North America Act, 1867, was constitutionally a provincial concern. The economic malaise was complicated by the fact that the Canadian federal state was unbalanced. The provinces were not all the same, and the Depression brought regional disparities into sharp focus. The Prairie provinces in particular teetered on the edge of bankruptcy (literally in default on debt), while the Maritimes went from despondence to despair regarding their conditions and prospects. Despite

measures undertaken by both Conservative and Liberal governments in Ottawa to deal with these problems, along with efforts by their provincial counterparts, governments were mired in the conventions of economic orthodoxy and the rules of a federal system of government immune to major changes starting with effective coordination between Ottawa and the provinces. By the mid-thirties, the federal system was broken. By 1937 something had to be done.

Canada's federal system had changed fundamentally over the seventy years since its founding in 1867. It began as a highly centralized order with the extraordinary tools of legislative review, disallowance, and residual power vested in the dominion government. Ottawa enjoyed wide taxation powers and fed off rich fields of "indirect" excises and tariffs. This "quasi-federal" state of dominion priority was challenged relentlessly almost from its inception. Provincial governments exerted their legislative powers and challenged the original fiscal dispensation in critical ways as early as the 1870s and 1880s. Their fiscal concerns often sounded like mere financial pleading for more money from Ottawa, but their strategies grew more sophisticated as they challenged for revenues from business licences and, most important, natural resource outputs. These challenges were supported in the main by judicial decisions from the Judicial Committee of the Privy Council, Canada's final court of appeal until 1951.

By the 1920s, Canada had become a typical, or "classical," federal state characterized by two coordinate levels of sovereign government, neither superior nor inferior to the other. It was an arrangement that prompted fierce and unresolved constitutional and political disagreements during the 1930s. While Ottawa possessed the fiscal resources to deal with unemployment, poverty, and public health, the constitutional responsibilities to address those matters remained in the provincial realm. Despite occasional fiscal adjustments, the provinces lacked the necessary resources to deal with what were now seen as "modern problems." In addition, Canada was both pleased with and dismayed by the full implications of constitutional autonomy that led to the Statute of Westminster in 1931. The country possessed the capacity but not the will to make substantive changes to its federal system let alone to its foreign policy, where the effects of national disunity were evident on the world stage. The result was a federation that seemed incapable of decisive policy action.

After Confederation, the “purposes of the Dominion” evolved into a broad program of economic development described later as the “national policy.” This policy was not a coordinated program but, rather, a cumulative settler-colonial project of the federal government devised in the 1870s and 1880s. It comprised massive westward territorial expansion and the simultaneous dispossession of Indigenous peoples, the construction of a transcontinental railway system, and the adoption of protective tariffs. Territorial expansion led to the settlement of the Prairie West as a major grain-export region and the creation of three constitutionally subordinate provinces, hamstrung fiscally and administratively by their lack of control over natural resources yet aware of their economic importance. The protective tariff nurtured a large manufacturing economy centred on the core areas of Ontario and Quebec. By the 1920s, the realization of this national policy program resulted in a continent-wide state and economy, but it also created deep regional and provincial disparities, social inequalities, and political conflicts. Throughout the period of expansion leading up to the Depression, both the Prairies and the Maritimes, with limited results, railed against national economic policies.

The international economic cataclysm of the Great Depression in the 1930s intensified the consequences of the transformed federal system and transcontinental national economy. The Depression has become such a cliché in popular culture that it is easy to elide its relentless impact over the course of the decade. But that impact was so grinding that it led Canadian politicians at both the federal and provincial levels to agree that a national inquiry into the federal system might provide an escape from the economic and constitutional labyrinth. The result was a paradox. The federal government had been motivated for seventy years by a clear national purpose of economic expansion and was supported by relatively stable taxation and revenues. The provincial governments, meanwhile, had increasingly taken up responsibility for these unprecedented “modern conditions,” including education, transportation, health, and welfare. During the 1930s, however, the provinces found it increasingly difficult not just to balance budgets but even to meet their governmental obligations. The nineteenth-century institutions of government and the old ways of governing no longer worked. The crisis epitomized the “break with the past” emphasized by many twentieth-century commentators to describe the

unprecedented technological, organizational, and economic transformation of the “modern age.”⁷

The Royal Commission on Dominion-Provincial Relations was established in August of 1937 and reported to the federal government in May of 1940. It was created to confront the evident failings of federalism in Canada. To an extent it was established to deal with the prospect of Confederation’s failure. Much had changed in the seventy years since 1867 and, as policy-makers repeatedly pointed out, the “Fathers of Confederation” could not have foreseen the rapid transformation of the nation. Most emphatically, the Great Depression made it glaringly apparent that the provincial governments (except Ontario) could not shoulder the increasing costs of their constitutional responsibilities, including relief for the unemployed, the building of new roads and infrastructure, and new expenditures on social programs. Canadian federalism had to be reconsidered and, if possible, remade.

While Canada has produced more than three hundred commissions of inquiry, the Rowell-Sirois Commission holds a distinctive place. As noted at the outset, it has been described in many works as the most important royal commission in Canadian history. In the words of political scientist Neil Bradford, it was “the greatest state paper of the twentieth century,” and “the most comprehensive investigation of a working federal system that has ever been made.” Its “radical prescription” was “set forth against a background of history and analysis the likes of which Canadians had never seen.” It represented a unique attempt to “weigh up at one stroke the economic, political, and financial progress of an organized system of government from its inception and to chart its future course.” Perhaps Lord Durham’s famous report, published a century before, might be comparable, but it was a British blueprint for a colony lacking full governmental powers. Rowell-Sirois was one of those rare governmental projects, identified by Max Weber, that “realign the thought and behaviour of social and political interests” and therefore “reset” national policy.⁸ Yet despite the importance of Rowell-Sirois having been recognized by historians and political scientists alike, its main findings have not been fully understood.

The Royal Commission on Dominion-Provincial Relations articulated a new role for the state in Canada and a new relationship between Ottawa and the provinces. The process was orchestrated by some of the

most impressive policy-making minds in the country. This intelligentsia, described at the time as a “Brain Trust” and by historians since as “the Ottawa Men” and “the Government Generation,” advocated a major shake-up of the Canadian federal system. The agenda was referred to by contemporaries as a “plan of re-federation.”⁹ But federalism, by its very nature, is built upon power and competition among different levels of government. Even though dominion and provincial officials agreed that the system was broken, finding a way to repair and even rebuild it would prove difficult to say the least. The Rowell-Sirois Commission was supposed to find the way.

Almost immediately after the report was delivered to the Canadian government in May 1940, its recommendations, and ultimately its direct impact, began to slip away. The report was released during the darkest days of the Second World War, when Ottawa was undertaking an extraordinary expansion of the state’s role. With its impressive research output and storehouse of proposals, and above all its specific recommendations for changes to Canadian federalism, the Rowell-Sirois Commission became one more victim of the war. Released during a particularly bitter and acrimonious period in the history of dominion-provincial relations, the path set out by the report was quickly obscured. Yet federalism moved in a direction that most analysts assumed was guided by Rowell-Sirois. They were correct about its significance but wrong about its direct impact. This book shows how the commission recast ideas about the foundations of the federal system and the nature of government in ways that would be at the core of public life for the next forty years.

Commissions of inquiry in the Canadian federal system are temporary institutions that fill a specific task for the government of the day. They are of two general types. Most are investigative commissions. These are inquiries into specific governmental or administrative problems, fact-finding studies of administrative failures or wrong-doing. A few, like the Rowell-Sirois Commission, are advisory commissions serving as broad examinations of general policy problems. The political scientist Alan Cairns noted that any inquiry is a “bureaucracy” but “ephemeral.” Commissions are administrative extensions of government with no extraordinary legal or legislative power beyond that of senior agencies and officials, but they allow full access to government records and offer the ability to call on witnesses

as in civil not criminal cases. They have considerable flexibility in operations, including the right to shape their program of inquiry within their terms of reference. They often include public hearings, research, and a public report, and, as a result, face considerable public scrutiny. Commissions are usually appointed under an Inquiries Act, whether federal or provincial, but they may be appointed under a variety of departmental guidelines. They disclose their findings to the government but the reports are tabled in the legislature and become part of the public agenda as well as the policy record.¹⁰

The Rowell-Sirois Commission was called at a time when governments heavily relied upon inquiries, particularly in newer British dominions like Canada and Australia, which were facing seemingly intractable problems and weak administrative and research capacities. The 1920s and 1930s was a period in which the interventionist, social service state was growing rapidly despite an ideology of *laissez-faire*. The federal government created commissions with remarkable frequency in the 1920s (forty-five in total) and 1930s (fifty-five in total). Most were formed to address administrative and legal bungling, but some advised on major political and economic questions.¹¹ The use of commissions declined in the decades after the Second World War. To an extent, this was inevitable. Their usage in the United Kingdom declined after 1900, and it was assumed that, as Canada built up competent public sectors and underwent civil service reform, the need for them would also decline.¹² But the importance of big public inquiries has remained notable in Canada and the provinces, even as their frequency has diminished.¹³

Many of the inquiries in the interwar period were called to deal with regional problems from two particular sections of the country. In the Maritimes, regional protest arose from what was perceived as the deleterious effect of national economic policy. In the West, vociferous demands were raised for compensation from half a century of quasi-colonial subordination and unfair national policy. These sectional protests resulted in royal commissions on Maritime claims, the marketing of grain, and Prairie natural resources. There were also more general “dominion” problems in the 1930s, most notably the stability of the banking and credit system, and the calamity of the unemployment crisis. Inquiries were vital policy tools of the times, although none were as extensive as Rowell-Sirois.¹⁴

The Royal Commission on Dominion-Provincial Relations undertook an extraordinary and indeed unprecedented task. It was the most extensive of its time and became the prototype for the later, multi-year broad policy inquiries. These inquiries have continued to punctuate national political life since the 1940s, on themes ranging from cultural policies and French-English relations to the fundamentals of economic and social policy, and most recently Indigenous issues.¹⁵ A careful examination of Rowell-Sirois reveals much about the workings of mid-twentieth-century government and also about how large-scale public policies were developed during the era.

This book explains the origins, the activities, and the outcomes of the Rowell-Sirois Commission. The first three chapters examine the national political framework and key federal policy problems that led to the decision to form the commission. The following five chapters explore the commission's organization and deliberations, particularly in relation to the views of the nine provinces, as the inquiry worked towards writing a report. The final three chapters provide an analysis of the report and the significance of its recommendations. The book concludes by reviewing the ways in which the commission's recommendations were considered by the federal and provincial governments in the 1940s and argues that it was at first shelved and then gained influence for decades after.

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